

Rule 5008. Notice Regarding Presumption of Abuse in Chapter 7 Cases of Individual Debtors

In a chapter 7 case of an individual with primarily consumer debts in which a presumption of abuse has arisen under § 707(b), the clerk shall give to creditors notice of the presumption of abuse in accordance with Rule 2002 within 10 days after the date of the filing of the petition. If the debtor has not filed a statement indicating whether a presumption of abuse has arisen, the clerk shall give notice to creditors within 10 days after the date of the filing of the petition that the debtor has not filed the statement and that further notice will be given if a later filed statement indicates that a presumption of abuse has arisen. If a debtor later files a statement indicating that a presumption of abuse has arisen, the clerk shall give notice to creditors of the presumption of abuse as promptly as practicable.

Rule 5008 COMMITTEE NOTE

This rule is new. The 2005 revisions to § 342 of the Bankruptcy Code require that clerks give written notice to all creditors not later than 10 days after the date of the filing of the petition that a presumption of abuse has arisen under § 707(b). A statement filed by the debtor will be the source of the clerk's information about the presumption of abuse. This rule enables the clerk to meet its obligation to send the notice within the statutory time period set forth in § 342. In the event that the court receives the debtor's statement after the clerk has sent the first notice, and the debtor's statement indicates a presumption of abuse, this rule requires that the clerk send a second notice.